

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NAMASCO CORPORATION

AI # 32513

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* **Settlement Tracking No.**
* **SA-AE-06-012**
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* **Enforcement Tracking No.**
* **AE-CN-04-0087**
* **AE-CN-04-0087A**
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SETTLEMENT

The following Settlement is hereby agreed to between Namasco Corporation ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns/operates the New Orleans Branch of Namasco Corporation, a facility for shot blasting and coating steel plate and structural profile products located at 4501 North Miro Street in New Orleans, Orleans Parish, Louisiana. The facility operates under Air Permit Number 2140-00122-00 issued on March 12, 1996. The Respondent submitted an application dated May 20, 2003, for a minor modification to the facility's air permit to increase the facility's volatile organic compound (VOC) emission limit. The Respondent submitted a revision to the 2003 minor modification application dated January 29, 2004, for authorization to construct a Reeco RL-25 Regenerative Thermal Oxidizer at the facility.

According to the 2004 revision, the Respondent plans to retain the facility's currently permitted VOC emission limit of 9.56 tons per year after the unit is installed. The Authorization to Construct and Approval to Operate the unit was issued to the facility on April 1, 2004.

II

On September 21, 2004 and December 23, 2004, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, AE-CN-04-0087 and Amended Consolidated Compliance Order & Notice of Potential Penalty, AE-CN-04-0087A, respectively, based upon the following findings of fact:

On or about April 13, 2004, a file review of the Respondent's facility was conducted to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

- A. According to a letter dated January 6, 2004, the Respondent notified the Department that the facility emitted 22.0 tons of VOCs during the 2002 calendar year. According to a letter dated February 27, 2004, the Respondent notified the Department that the facility emitted 32.5 tons of VOCs during the 2003 calendar year. Each exceedance of the facility's maximum permitted VOC emission rate of 9.56 tons for any consecutive twelve month period is a violation of Specific Condition Number 5 of Air Permit Number 2140-00122-00, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. The Department has no record that the Respondent provided notification to the Department within five days of the facility's failure to comply with the emission limitations specified in the facility's air permit. This is a violation of Louisiana General Condition XI of Air Permit Number 2140-00122-00, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- C. The Department has no record that the Respondent submitted an annual specific condition report, showing the calculated VOC and

toxic air pollutant (TAP) emissions from the facility, to the Department for the calendar years 1996 through 2000. The Respondent submitted a report dated January 6, 2004, showing the calculated annual VOC emissions from the facility for the 2001 and the 2002 calendar years. The Respondent submitted a report, dated February 27, 2004, showing the calculated annual VOC emissions from the facility for the 2003 calendar year. Each failure to submit an annual specific condition report, including both the calculated VOCs and the calculated TAPs emitted from the facility based on paint and thinner consumption from paint operations at the facility, to the Department by February 15 for the preceding calendar year is a violation of Specific Condition Number 5 of Air Permit Number 2140-00122-00, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. In a letter dated April 12, 2004, the Respondent submitted the calculated TAP emissions for the 2003 calendar year at the request of the Enforcement Division.

- D. In a meeting with the Department on or about October 25, 2004, and in a letter to the Department dated October 29, 2004, the Respondent self-disclosed that the facility had emitted above its permitted annual volatile organic compound (VOC) emission limit for the 2004 calendar year. Each exceedance of the facility's maximum permitted VOC emission limit of 9.56 tons of VOCs for any twelve consecutive month period is a violation of Specific Condition Number 5 of Air Permit Number 2140-00122-00, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. In the letter dated October 29, 2004, the Respondent requested interim authorization to emit 3.3 tons per month of VOCs from the facility to address the increased levels of VOC emissions from the facility.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$5,100.00), of which SEVEN HUNDRED SEVENTY ONE AND 24/100 DOLLARS (\$771.24) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty, the Amended Consolidated Compliance Order & Notice of Potential Penalty, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to

enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed

Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

NAMASCO CORPORATION

BY: [Signature]
(Signature)

Paul D. Crocker
(Printed or Typed)

TITLE: Southwest Regional Manager

THUS DONE AND SIGNED in duplicate original before me this 24th day of April, 20 06, at Picayune, MS.

[Signature]
NOTARY PUBLIC (ID #)

Connie Tucker
(Printed or Typed)

My commission expires January 19, 2008.

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Mike D. McDaniel, Ph.D., Secretary

BY: [Signature]
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of April, 20 06, at Picayune, Mississippi, Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID #)

Connie Tucker
(Printed or Typed)

My commission expires January 19, 2008.

Approved: [Signature]
Harold Leggett, Ph.D., Assistant Secretary